

1 JEFFREY A. TOPOR (SBN 195545)  
jtopor@snllp.com  
2 ARVIN C. LUGAY (SBN 242599)  
alugay@snllp.com  
3 SIMMONDS & NARITA LLP  
44 Montgomery Street, Suite 3010  
4 San Francisco, CA 94104-4816  
Telephone: (415) 283-1000  
5 Facsimile: (415) 352-2625

6 Attorneys for Defendant  
7 Cavalry Portfolio Services, LLC

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11  
12 JESUS VICTOR RODRIGUEZ,

13 Plaintiffs,

14 vs.  
15

16 CAVALRY PORTFOLIO  
17 SERVICES, LLC,

18 Defendant.  
19 \_\_\_\_\_

CASE NO.: 11-CV-1837-LAB-MDD

**DECLARATION OF TERRY W.  
RIVERA IN SUPPORT OF  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Date: February 6, 2012

Time: 11:30 a.m.

Crtrm: 9, Second Floor

The Honorable Larry A. Burns

1           1.     I am a paralegal at defendant Cavalry Portfolio Services, LLC  
2     ("Cavalry"). I make this declaration in support of Cavalry's motion for summary  
3     judgment. I have knowledge of the facts set forth below based upon my review of  
4     the documents maintained by Cavalry Portfolio Services, LLC, and could and  
5     would testify thereto if called upon to do so.

6           2.     Cavalry's affiliate, Cavalry SPV I, LLC purchases unpaid receivables  
7     from a variety of credit grantors, including banks, credit unions, consumer finance  
8     companies and automobile finance companies. On October 29, 2010, Cavalry  
9     SPV I, LLC bought a portfolio of unpaid, charged-off credit card accounts from  
10    non-party Wells Fargo Bank, including two accounts belonging to plaintiff Jesus  
11    Victor Rodriguez. The total amount due on the two accounts was \$102,839.86.

12          3.     On November 1, 2010, Cavalry SPV I, LLC assigned Rodriguez's  
13    accounts to Cavalry for collection.

14          4.     As part of the collection process, Cavalry corresponds with and  
15    telephones debtors. To ensure that it has accurate addresses and telephone  
16    numbers for the debtors from whom it attempts to collect, Cavalry engages in  
17    "skip tracing," a process designed to obtain or confirm location information. One  
18    source that Cavalry uses in this process is Experian, a consumer credit reporting  
19    agency, which issues consumer credit reports.

20          5.     On January 8, 2003, Cavalry entered into a Subscriber Service  
21    Agreement with Experian, certifying and warranting that it would request and use  
22    credit information received from Experian solely in connection with credit  
23    transactions or for other "permissible purposes," as defined by the federal Fair  
24    Credit Reporting Act. Cavalry further certified and warranted that it would  
25    request and use information received from Experian solely in connection with  
26    transactions involving the consumer as to whom such information was sought, and  
27    would not request or use such information for purposes prohibited by law. On  
28

1 January 30, 2003, Cavalry separately certified to Experian that it would use  
2 consumer credit information it obtained from Experian for collection purposes.

3 6. On November 16, 2010, Cavalry ordered a copy of Rodriguez's  
4 consumer credit report from Experian. Cavalry did so to confirm that it had the  
5 correct contact information for Rodriguez, which it needed to contact him  
6 regarding payment of the accounts, and as part of its analysis into Rodriguez's  
7 ability to repay the accounts.

8 7. After acquiring Rodriguez's credit report from Experian, Cavalry  
9 attempted to contact Rodriguez by telephone, and sent him a number of letters  
10 seeking payment.

11  
12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed this 9 day of December, 2011 in Valhalla, N.Y.

14  
15 By:

  
Terry W. Rivera

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## PROOF OF SERVICE

I, the undersigned, declare:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is 44 Montgomery Street, Suite 3010, San Francisco, California 94104-4816.

I am readily familiar with the business practices of my employer, Simmonds & Narita LLP, for the collection and processing of correspondence by mailing with the United States Postal Service and that said correspondence is deposited with the United States Postal Service that same day in the ordinary course of business.

On this date, I served a copy of the following document:

**1) DECLARATION OF TERRY W. RIVERA IN SUPPORT OF  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

by causing such document to be placed in a sealed envelope for collection and delivery by the United States Postal Service to the addressee indicated below:

**VIA U.S. MAIL**

Jesus Victor Rodriguez  
10531 4s Commons Drive, Suite 426  
San Diego, CA 92127  
Plaintiff

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on this 9th day of December, 2011.



Sally Koo